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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,935	07/13/2006	Stefaan Penne	PENN3001/JJC/PMB	9278
23364 7590 09/09/2010 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176				
EXAMINER				
GRABOWSKI, KYLE ROBERT				
ART UNIT		PAPER NUMBER		
3725				
MAIL DATE		DELIVERY MODE		
09/09/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/585,935

Applicant(s)

PENNE, STEFAAN

Examiner

Kyle Grabowski

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-12 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-12 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date 11/11/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This non-final action is in response to the RCE and claims filed on 02/25/10

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10-12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergendahl (US 1,932,153).
4. In respect to claims 10-11 and 15, Bergendahl discloses a device for binding a quire 1 (broadly, a gathering of sheets) comprising a table 9 including a bowed portion 90 beginning at a position directly adjacent to a recess 10 having a shape corresponding to the contour of knife 11, such that the sheets are rolled up; a generally U-shaped stop, jaw 4, is configured to receive an edge of the sheets; clamping means 6 are also arranged on the table 9 (Fig. 4). Although the sheets having a folded configuration e.g. a quire is not disclosed, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Schreiber*, 128 F.3d

1473, 1477-78, 44 USPQ2d 1429,1431-32 (Fed. Cir. 1997). (MPEP 2114). The device is equally capable on a stack of sheets or pre-folded stack of sheets, a "quire".

5. In respect to claim 12, the knife has a cutting edge which is situated at a further distance from the table than the opposite cutting edge. The relative edge facing the edge of the sheets, is again, irrelevant to the structure of the device, and depends on usage.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-6 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sowden (US 4,364,737) in view of Abildgaard et al. (US 4,833,958).

In respect to claims 1-3, Sowden discloses a method for binding a quire which may be formed by a gathering of several sheets 21-22 (Col. 1, 59-61), comprising providing at least one cut through the sheets of the quire as of a short distance from the folding edge of the quire wherein every cut through a sheet of the quire defines a lip (formed from T-shaped section 7, Fig. 1) extending mainly crosswise from the folding edge of the quire (see Fig. 7); the lip is connected to the quire with its far end (formed by 20, which doesn't penetrate, Fig. 1) which is turned toward the folding edge and wherein the lip has a widening (formed by 19, Fig. 1) situated at a distance from the far end of the lip (Abstract). Sowden does not disclose that the quire is formed of folded sheets slipped into each other (rather just a general stack of sheets) however Abildgaard et al. teaches a similar device wherein the cuts may be made through either sheet stacks or signatures (synonymous with quires, generally sheets having a common fold axis) (Col. 1, 65-69) and it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute using stacks of sheets in the device taught in Sowden with folded quires in view of Abildgaard because each can be "handled in the same manner" (Col. 1, 65-69). The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art, namely, that a set of sheets e.g. 20 and a folded set of 10 sheets have the same properties in the areas of action e.g. cutting and thus have a predictable result regardless if the sheets are pre-folded or not.

9. In respect to claims 4-6, Sowden further discloses that the cut is provided slantingly in relation to the surface of the quires (i.e. the surface of the cut is diagonal at

41a, Fig. 7); the cut is realized by a profiled die 40 having a cutting portion 41, the profile die is only pushed partly through the quire (i.e. the non-cutting portion of the profiled die 40 does not penetrate the quire, Fig. 7).

10. In respect to claim 8, Swoden further discloses several cuts may be made by the device at the same distance from the folding edge (Fig. 6).

11. In respect to claim 9, Swoden further discloses the lips are pushed through, resulting in meshing under the bottom of the sheet (Col. 1, 55-62)

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cone (US 1,324,103), Roeder (US 2,016,052), Ruth (US 766,905), Berger (US 5,899,841), Godston (US 2002/0020272), and Misson (US 3,005,371), disclose similar inventions.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle Grabowski whose telephone number is (571)270-3518. The examiner can normally be reached on Monday-Thursday, every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on (571)272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kyle Grabowski/
Examiner, Art Unit 3725

/Dana Ross/
Supervisory Patent Examiner, Art
Unit 3725